

6

Notice of Allowability

Application No.

10/000,276

Examiner

Michael G. Bogart

Applicant(s)

BEAUFORT ET AL.

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received 26 September 2005.
2. ☒ The allowed claim(s) is/are 1, 4-13, 15, 17-19, 21-26, 28, 30-32, 34-38, 40, 42, 43, 50, 53-67 and 69-111.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date <u>22 June 2005</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 5, 12, 13, 50, 54 and 55, the stiffening members (80) of Willis *et al.* (US 6,767,340 B2), the most relevant art of record, do not define a second duckbill structure as claimed by Applicants in each of claims 1 and 50. Rather, the stiffening members (80) of Willis *et al.* are fins or ribs that extend outwardly from, and generally transverse to, the single duckbill valve structure (42) (see Col. 3. line 55-Col. 4, line 35). Moreover, the stiffening members (80) of Willis *et al.* are solid structures as evidenced by the cross-sectional view in Fig. 3 of Willis *et al.* Consequently, the stiffening members (80) of Willis *et al.* are not "generally hollow" as claimed by Applicants in each of independent claims 1 and 50. (see applicant's remarks, page 29).

Regarding independent claims 32 and 89 in view of the most relevant art of record Schmidt (US 2002/0170557 A1) and claim 79 in view of Willis *et al.*, the claims as amended to recite that the isolation member supports the valve member (claims 32 and 89) or double-duckbill vale (claim 79) so as to resist accidental actuation of the valve. Schmidt does not support the valve (38) so as to resist accidental of the valve. Rather the inner tube (36), in combination with the outer tube (40) formed circumferentially thereabout, form a groove (42) therebetween for receiving the outlet tube (6) of the holding chamber (4). The inner tube (36) of Schmidt does not perform the function of supporting the valve (38) so as to resist accidental actuation of the valve as recited in each of independent claims 32 and 89.

In Willis *et al.* the valve (42) is placed in contact with the valve housing (40) through the stiffening ribs (80)(see Col. 4, lines 20-29 and Fig. 3). Consequently, the flange portion (68) of

Art Unit: 3761

the Willis *et al.* valve, does not space the valve (42) from walls of the valve housing (40) or perform the function of supporting the valve (42) so as to resist accidental actuation of the valve as recited in claim 79. (see applicant's remarks, pages 30 and 31).

The claims not specifically addressed herein contain at least the above discussed limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 3761

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart
29 September 2005

TATYANA ZALUKAEVA
PRIMARY EXAMINER

